

# **DRAFT DECISION NOTICE AND FINDING OF NO SIGNIFICANT IMPACT**

## **Patrick VEGETATION MANAGEMENT PROJECT**

U.S. Forest Service  
Wallowa-Whitman National Forest  
Whitman Ranger District  
Baker County, Oregon

The Patrick Vegetation Management project Environmental Assessment (EA) compares a range of alternatives derived from key issues across the 48,794-acre planning area. The EA and Finding of No Significant Impact (FONSI) are incorporated by reference and available at <https://www.fs.usda.gov/project/?project=55477>.

### **DECISION**

This draft Decision Notice (DN) is based on my review of the Patrick EA, specialist reports, associated scientific literature, response to public input during both the scoping and preliminary EA comment periods. As outlined in 36 CFR 218.7, a 45-day objection filing period will follow the release of this draft DN.

Based on analysis described in the EA and project record, I have decided to implement Alternative 2. This alternative was designed to address the purpose and need and key issues identified during scoping with a focus on improving forest health and resiliency to disturbance, reduce the risk of wildfire within the wildland urban interface (WUI), increase structural complexity and species diversity of forest vegetation providing habitat to a wider range of wildlife species and provide economic benefit to the local economy.

The project areas lies approximately 3 air miles southwest of Sumpter, Oregon and approximately 21 air miles southwest of Baker City, Oregon. The majority of the project is located in North Fork Burnt River (48,753 acres) with small portions in the Bridge Creek-Middle Fork John Day River (17 acres), Granite Creek (16 acres), Camp Creek-Middle Fork John Day River (6 Acres) and Phillips Lake-Powder River (2 acres) watersheds. The Patrick project area completely encompasses the Whitney WUI area, and contains portions of the Sumpter/McCully Forks WUI area, Greenhorn WUI area, and Woodtick Village/Rattlesnake Estates WUI.

### **ALTERNATIVE 2 (AS DESCRIBED IN THE EA PAGES 15-30)**

The treatments were separated into two main categories upland vegetation restoration and riparian vegetation restoration. Many treatment activities would receive follow up treatments in the form of PCT and prescribed burning. The discrete acres listed in each treatment would share common acres (multiple treatments on the same acre) with the other treatment.

- Upland Vegetation Restoration Treatment:

- Commercial harvest (HTH) on 18,639 acres outside of RHCAs
- Group Selection (HSG) on 1,916 acres
- Defensible fuel profile zones and commercial thinning (DFPZ-HTH) on 1,241 acres
- Aspen Restoration on 33 acres
- Post & Pole on 1,157 acres with an additional 3 acres within DFPZ
- Pre-commercial thinning connected to harvest on 19,502 acres
- Non-commercial thinning not connected to harvest on 10,915 acres
- Riparian Vegetation Restoration Treatment:
  - Commercial harvest (RVR) on 481 acres within the RHCAs
  - Pre-commercial thinning connected to harvest on 467 acres
  - Non-commercial thinning not connected to harvest on 3,743 acres
- Prescribed Burning of activity fuels on 36,032 acres
- Road maintenance and reconstruction design criteria described in Appendix B of the EA
- Add 10.52 miles of inventoried non-system roads to Forest road system
- Minor Changes to management of specific system roads as described in the EA, Table 4 and Table 5. Post-Harvest Road Management Proposed Changes
- Temporary road construction totaling 38.5 miles
- Replace three culverts with aquatic organism passage structures.
- Elk security enhancement measure: Extend the Patrick Creek Cooperative Travel Management Area (TMA) closure 3 days prior to archery season. This closure currently operates annually from 3 days prior to opening Rocky Mountain bull elk first season through the close of Rocky Mountain bull elk second season. Motorized use has become more prolific during archery season, compromising the purpose and need for the existing TMA.
- Retention of wildlife connectivity corridors, snags, down logs, and wildlife trees.

## PROJECT DESIGN CRITERIA AND MONITORING

Project design criteria and monitoring requirements for each resource is described in the EA in Appendix B.

## ALTERNATIVES

The Patrick interdisciplinary team developed alternatives based on the project purpose and need, as well as key issues and other concerns identified in the EA. Forest Service management objectives are incorporated into alternatives by following the standards and guidelines of the Wallowa-Whitman National forest Plan, as amended.

**Alternative One**

This alternative constitutes the “No Action” alternative required by NEPA. Fuel reduction activities, road work, timber harvest, and white bark pine enhancement opportunities identified in this analysis would be deferred. This alternative forms the baseline for comparison of the action alternatives.

**Alternative Two – Proposed Action**

This treatment is the preferred alternative and described in the Decision above.

**Alternative Three**

This alternative responds to comments received during the scoping period that requested the Forest analyze an alternative with no activities in the RHCAs (Key Issue 3). The exception to this would be prescribed burning and maintenance or rehabilitation/reconstruction of roads. Prescribed burning would still be allowed to back into RHCAs, but no active lighting would take place within the RHCA under this alternative. General road maintenance and rehabilitation for roads that are located within an RHCA would still take place. Also, the same road relocations within Alternative 2 (as described in Road-related PDCs, above) would occur to move roadbeds out of the stream flood plain, provide better drainage and minimize the potential for sedimentation into the adjacent stream.

**PUBLIC INVOLVEMENT**

This action was originally listed as a proposal on the Wallowa-Whitman National Forest, Schedule of Proposed Actions and updated periodically during the analysis. People were invited to review and comment on the proposal through mailings during scoping and public comment period and news releases. The EA lists agencies and people consulted on pages 11-12.

Interested parties were notified on February 28, 2019 by mail, newspaper release and Schedule of Proposed Actions (SOPA) that the Patrick proposed action was available for comment on the forest webpage. eleven comment letters were received during the scoping period, from which alternatives and additional analysis were developed in response to concerns raised.

The 30-day comment period on the draft EA began on April 29, 2021. A letter to notify interested parties of the upcoming comment period, as well as a newspaper release and SOPA update were provided. Four comment letters were received during the 30-day comment period.

For a complete list of comments, please see the comment consideration forms in Appendix F of the EA.

**TRIBAL CONSULTATION**

For this project, a scoping letter was sent to the Nez Perce Tribe, The Confederated Tribes of the Umatilla Indian Reservation (CTUIR), Confederated Tribes of Warm Springs, and Burns Paiute Tribe on February 28, 2019, informing them of the Patrick proposed project and requesting comment or concerns.

The project was included in the Wallowa-Whitman National Forest’s program-of-work booklets for 2014 through 2020, and the project was presented during regularly scheduled program-of-work meetings with the CTUIR and the Nez Perce Tribe. For a complete list of dates of involvement see p. 12 of the EA.

## CONSIDERATION OF KEY ISSUES

Issues were generated internally, by the interdisciplinary team, and externally, through public comments. Involvement of interested individuals, businesses, organizations, and county, state, and federal agencies, and local tribes was sought to provide detailed information for defining the issues, concerns, mitigations, and treatment options. Public comments were carefully considered during project development, including mitigation measures and project design criteria to reduce or eliminate environmental impacts. My decision is responsive to these as it is important to me to show the public how I considered their comment and how those comments made a difference in my decision.

In making the decision to select alternative 2, I considered its response to key issues. vegetation management, elk distribution, and riparian vegetation restoration were identified as key issues.

**Vegetation Management** - Forest vegetation includes a range of dry, moist and cold upland forest types or Potential Vegetation Groups (PVG). The dry upland forests (DUF) in the Patrick project area range from pure ponderosa pine stands in lower elevations to mixed conifer stands in the higher elevations. Moist upland forests (MUF) are comprised of mixed conifer stands with higher proportions of later seral, fir species and understory grass and shrub species typical of higher moisture regimes. The cold upland forest (CUF) types include pure lodgepole pine stands along the southwest boundary of the project area as well as mixed conifer stands. Pure western juniper stands also exist throughout the lower elevations.

Each PVG is typically composed of plant association groups that occur as a result of the predominant influence of temperature or moisture (Powell 2012). These plant association groups represent the “potential vegetation” that would eventually dominate the site in the absence of disturbance (typically the most shade tolerant species that can occur and eventually dominate the site).

**Table 1: Patrick Vegetation Classification**

| Forested Potential Vegetation Groups | Acres  | Percent of the forested landscape | Predominant Tree Species   |
|--------------------------------------|--------|-----------------------------------|--|
| Dry Upland Forest (DUF)              | 33,636 | 79                                | Ponderosa pine, Douglas-fir, western larch, and grand fir                |
| Moist Upland Forest (MUF)            | 3,090  | 7                                 | Ponderosa pine, Douglas-fir, western larch, lodgepole pine and grand fir |
| Cold Upland Forest (CUF)             | 6,095  | 14                                | Subalpine fir, lodgepole pine, grand fir, western larch, Douglas-fir     |

Patches (0.5 to 10 acres) of quaking aspen are also present in both the uplands and riparian areas. Other hardwood species include black cottonwood and Scouler’s willow within riparian areas and isolated groups scattered throughout the uplands. Non-forested areas include meadows, areas

of shallow soils containing sparse grass cover and mountain mahogany or western juniper, rock outcroppings and sage steppe habitat. Vegetation conditions are strongly influenced by aspect throughout the forested uplands of the project area. Sharp contrasts between northly and southerly slopes are apparent with drier species, lower stocking levels and non-forested patches prevailing on southern aspects.

### *Desired Conditions/ Range of Variation Analysis*

Desired conditions for insect and disease susceptibility, structure stage, species composition and stand density are represented by the desired Range of Variation (RV) associated with each forest type or Potential Vegetation Group (PVG). This desired range of variation is not a static condition tied to a set point in time. This represents a range of conditions that are believed to exist when the landscape is exposed to historic disturbance regimes or patterns. The premise of this type of analysis is that native species have evolved and adapted with historical disturbance regimes of a specific area or landscape. If ecosystem components are within a range of conditions that would occur under these historic disturbance regimes they represent a more sustainable, resilient system.

In order to clearly tie this analysis to these historical disturbance regimes and analysis requirements outlined in the 1993 Eastside Screens the term Historical Range of Variability (HRV) is used to describe our Range of Variation values.

Table 2 below summarizes the current conditions and departure from HRV by PVG for structure stage, species composition and density. In order to summarize the level of departure forest attributes are generalized for each forest characteristic as listed below.

- **Forest Structure:** Number of canopy layers – Stem Exclusion, Stand Initiation and Old Forest Single Strata are considered single story. Under story Re-initiation and Old Forest Multi Strata are considered Multi Story. See the Patrick EA and Silviculture Report for full description of these structure stages.
- **Species Composition:** Based on Seral State – The concept of seral state here is described in terms of tolerance to shade, fire, drought, and the relative ability of a species to regenerate and establish new plants and survive in a forested environment. Early seral species have low shade tolerance but higher potential to survive disturbance such as fire insect and disease and drought. Mid seral species such as Douglas-fir have more shade tolerance than early seral species but have a lower level of resiliency to disturbance. Late Seral species have the highest shade tolerance within their respective PVG and have the ability to reproduce and survive under the canopy of other trees. However, these species generally have much lower resiliency to disturbance due to various physiological characteristics of these species.
- **Tree Density:** Tree density refers to the level tree stocking relative to HRV for each PVG. For this analysis canopy cover was utilized to determine existing density levels.

**Table 2: Summary of Vegetation Departure from Desired Conditions or HRV**

| PVG | Forest Structure                           | Species Composition                                      | Stand Density                              |
|-----|--|--|--|
| DUF | Over in multi-story/ under in single story | Over in late seral species/ under in early seral species | Over in high density/ under in low density |

|     |  |  |  |
|-----|--|--|--|
| MUF | Over in multi-story/ under in single story | Over in mid seral species/ under in early seral species        | Over in low density/ under in high density |
| CUF | Over in multi-story/ under in single story | Over in late seral species/ under in early & mid seral species | Over in low density/ under in high density |

All three forest attributes show large departure within the dry upland forest which comprises the majority of the landscape (79%). Lower densities in moist and cold forests may be a consequence of past management activities coupled with insect and disease issues. However, the departure in forest structure and species composition suggests that these forest types are becoming less resilient to disturbance and moving away from sustainable conditions.

Overall forest conditions within the project area include increased multi story stands, elevated densities (within DUF) and an increase in late seral, shade tolerant species. Single story structure stages of stand initiation and stem exclusion are below desired levels across all three PVGs. Old forest single strata/story comprises less than 1% of the dry forests and is absent across the rest of the project area. The Understory Re-initiation structure stage (multi-story) is well above desired conditions across all three PVGs. Tree species diversity continues to decline due to the succession of stands to shade tolerant species and the loss of early seral, shade intolerant species. The departure of forest structure stages and abundance of multi canopy conditions has fragmented old forest habitat types. These conditions greatly increase the susceptibility of large scale, uncharacteristic disturbance such as wildfire or insects and disease outbreaks.

### Summary of Effects by Alternative

Proposed treatments under both alternative 2 and 3 would have overall beneficial effects across all forest types or PVGs. Old Forest Single Strata and Understory re-initiation stages are the most highly departed structure stages on this landscape. Both action alternatives were designed to address these large departures. Treatments were also designed to shift species composition toward HRV by reducing the level of late seral species present on the landscape and promoting early seral species that have continued to decline due to lack of wildfire on the landscape. Tree densities would be reduced across all three PVGs to move overall conditions toward HRV.

**Table 3: Summary of Effects by Alternative**

| Forest Characteristic | Alternative 1   | Alternative 2  | Alternative 3   |
|-----------------------|---|--|---|
| Stand structure       | Old Forest Single Strata exhibits no change across all forest types and remains highly departed from desired conditions. Understory Re-initiation remains highly departed and well above HRV. | Old Forest Single Strata and Understory re-initiation stages exhibit the highest benefit from treatment. Old Forest Single Strata moves from being almost nonexistent to within or near HRV across all forest types. The Understory Re-initiation stage is reduced by almost 50% across all forest types, exhibiting a drastic shift toward HRV. | This alternative would have the same effects as Alternative 2 for restoring structure stages and moving conditions toward HRV overall. However, the effects would be across a decreased proportion of the landscape and would not address structure departure or increase forest resiliency within RHCAs. |



|                     |  |  |  |
|---------------------|--|--|--|
| Tree Density        | <p>Density levels would continue to move away from HRV within the DUF resulting in overstocked stands and high susceptibility to disturbance.</p> <p>The elevated susceptibility to disturbance due to continued departure in structure stage and species composition within the MUF and CUF forest types would continue to inhibit the ability for tree density to move toward HRV.</p> | <p>Increases overall forest resiliency by reducing stocking levels and moving density levels to within HRV in the DUF forest type (79% of forested landscape).</p> <p>MUF and CUF forest types shift away from HRV as a result of thinning treatments to address species composition and structure stage departures. However, this shift would be temporary as treatments would increase tree growth rates. The overall benefits of moving stand structure and species composition toward HRV would outweigh the temporary movement away from HRV for density in these PVGs.</p> | <p>This alternative would have the same effects as Alternative 2 for restoring density levels within the DUF. However, the effects would be across a decreased proportion of the DUF landscape and would not address density departure or increase forest resiliency within RHCAs.</p> <p>Effects across the MUF And CUF would be virtually the same as alternative 2 with the exception of RHCA treatments. RHCAs would not receive treatment and would mimic effects in Alternative 1.</p> |
| Species Composition | <p>In the absence of treatment the overall trend in species composition moves further away from HRV across all three forest types. This trend would continue as late seral/ shade tolerant species out compete early seral/shade intolerant species over time. These conditions would increase susceptibility to disturbance and decrease overall forest resiliency.</p>                 | <p>The greatest effects to species composition is found within the DUF forest type. Treatment moves conditions to within HRV for both early and late seral species greatly increasing forest resiliency.</p> <p>Treatments within the MUF and CUF forest types move conditions close to or within HRV for early, mid and late seral species increasing forest resiliency. Treatment would create a slight abundance in early seral conditions allowing room for conditions to shift into mid and late seral stages over time as forest stands evolve.</p>                        | <p>This alternative would have the same effects as Alternative 2 for restoring species composition and moving conditions toward HRV overall. However, the effects would be across a decreased proportion of the landscape and would not address species departure or increase forest resiliency within RHCAs.</p>  |

### *Insect and Disease Susceptibility*

Existing susceptibility is relatively high in the Patrick project area for bark beetles. In addition, bark beetles, defoliators, and dwarf mistletoe all have a high percentage of area that is rated as moderate susceptibility across all forested PVGs showing a landscape that is moving toward a high-risk level for these identified insect and disease vectors.

Susceptibility is typically measured by a forested systems' vulnerability to sustaining substantial injury from insects or disease agents. When the pattern, extent or intensity of disturbances exhibit significant changes over the landscape there may be an indication of an impaired system (Sampson et al.1994). Reducing overall susceptibility to ranges that are within or closer to HRV increases the ability of a stand or landscape to withstand or respond to periodic disturbances more effectively (Powell 2010). Changes to the stand characteristics tree density, species composition and structural stage (multi or single canopy layer) all act as direct influences on the susceptibility of the landscape to disturbance in the form of insects and disease.

Both action alternatives move the overall forest conditions toward HRV in comparison to the no action alternative reducing susceptibility to insects and disease. Tree density is moved to within HRV within the Dry Upland Forest PVG. Species composition and stand structure exhibit large shifts toward HRV across all PVGs as a result of proposed treatments.

Tree density exhibits a temporary shift away from HRV within Moist and Cold Upland PVGs with treatment. This is due to the current forest conditions and the need to shift species composition, stand structures and insect and disease susceptibility toward HRV. As species composition and stand structure move toward HRV stand densities will also trend toward HRV over time. This would be a short-term effect for a long-term benefit. We cannot address the current departure in stand structure and species composition without temporarily reducing tree density.

Alternative 1 continues to shift conditions away from HRV. Due to the physiological adaptations of late seral, shade tolerant species all three forest types will continue to exhibit an increase in late seral species and a reduction in early seral species in the absence of disturbance. The increase in late seral species will also continue to increase the level of multi-story stand structures across this landscape. If left unmanaged these landscapes would become highly vulnerable to large scale, uncharacteristic disturbance.

**Disturbance associated with open roads, combined with a decrease in forest cover from the proposed harvest treatments, may contribute to poor elk distribution-** Elk are the most popular big game species in northeastern Oregon. Quality elk hunting opportunities on public lands are an important "First Foods" related ecosystem service to members of local tribal nations. This species is also an indicator of the quality and diversity of general forested habitat, the interspersed cover and forage areas, and the security habitat provided by cover and low levels of human activity. Disturbance associated with open roads, combined with a decrease in forest cover from the proposed harvest treatments, may contribute to poor elk distribution.

**Table 4: Resource indicator and measures for assessing effects**

| Resource Indicator   | Measure<br>(Quantify if possible)                     |
|----------------------|---|
| Elk Security Habitat | Acres within project area > 0.5 miles from open roads |
|                      | Acres within project area > 1.0 miles from open roads |
|                      | HEI value   |

Habitat effectiveness generally refers to the ability of the habitat to support wildlife and how this ability is affected by human disturbance (e.g., Suring et al. 1998; Gaines et al. 2001). Habitat



Effectiveness Index (HEI) values were calculated for the Patrick project area using an elk habitat model developed by Thomas et al. (1988). This model is based on the interaction of four variables that influence elk habitat selection: the size and spacing of cover and forage areas, density of roads open to vehicular traffic, forage quantity and quality, and the quality of cover. The HEI model developed by Thomas et al. (1988) relies on open road density as an indicator of relative effects from roads on elk habitat. However, more recent research found no relationship between the number of elk locations and HEI values based on road densities (Rowland et al. 2000). In contrast, Rowland et al. (2000) did find a strong, linear increase in selection ratios of elk as distance to roads increased. Therefore, a method using a distance-banding approach, as described by Rowland et al. (2005), was used for this analysis. The Forest Plan standard for HEI within summer range is a minimum of 0.5 with an average of 0.62. The existing HEI value for the Patrick project area is 0.36.

**Table 5: HEI values by alternative**

| Alternative        | HEI  |
|--------------------|------|
| Existing condition | 0.36 |
| Alt 2              | 0.60 |
| Alt 3              | 0.60 |

Security for elk on publicly accessible lands has traditionally been regarded as areas away from motorized routes with high canopy cover that can maintain elk even during periods of hunting stress (Lyon 1979, 1983; Hillis et al. 1991, Ranglack et al. 2017). Estimates vary among studies, but elk show preference for areas that are at least 0.4 miles from an open road (Table 6). In areas where terrain is gentle, hunter effort is high, or cover is low, the distance from motorized routes needs to be even greater to provide elk security.

Currently, much of the project area (92%) is less than 0.5 mile from an open road and is unlikely to be providing adequate elk security. During rifle hunting seasons and elk calving season, the number of acres greater than 0.5 miles from an open road increases by 783 and 3,408 acres respectively, due to the closure of gates in the Patrick Creek Cooperative Travel Management Area. Even so, the percentage of the project area that is greater than 0.5 miles from an open road is 9% during rifle seasons and 14% during calving seasons, well below the minimum of 30% recommended by Hillis et al. (1991).

**Table 6: Distance band acres within Patrick Project Area**

| Distance from open road (miles) | Acres (% project area) | Calving Season Acres (5/1 – 7/1) | Rifle Season Acres (Approximately 10/1 – 11/15) |
|---------------------------------|------------------------|----------------------------------|---|
| < 0.5                           | 48,649 (92%)           | 45,241 (86%)                     | 47,866 (91%)                                    |
| 0.5 - 1                         | 4,074 (8%)             | 5,899 (11%)                      | 4,746 (9%)                                      |
| >1.0                            | 59 (<0%)               | 1,643 (3%)                       | 170 (<0%)                                       |

The degree to which the purpose and need for action are met. Standards for elk from the 1990 Wallowa-Whitman Forest Plan focus on road densities and cover. However, in the 30 years since that plan was written, biologists have gained a greater understanding of elk biology and behavior. The effect of roads on elk habitat selection has been widely documented. However, it is the spatial arrangement of roads rather than the density that has the greatest influence. In addition, it has been documented that forest cover is less important than previously thought, particularly when roadless areas are well-distributed across the landscape. Alternative 1 would forego the

opportunity to create forage and additional security habitat for elk. Alternatives 2 and 3 would create additional security habitat for elk that would reduce the negative effects incurred from the loss of cover and allow elk to better utilize the forage that would be created by this project.

**Table 7: Summary comparison of how the alternative address the key issues**

| Issue        | Indicator/Measure                                     | Alt 1 | Alt 2 | Alt 3 |
|--------------|---|-------|-------|-------|
| Elk Security | Acres within project area > 0.5 miles from a road     | 4,074 | 4,975 | 4,975 |
|              | Acres within project area > 1.0 miles from open roads | 59    | 170   | 170   |
|              | HEI value   | 0.36  | 0.60  | 0.60  |

**Riparian Vegetation Restoration (RVR)** – Public comments were submitted expressing concern over the Riparian Vegetation Restoration treatments proposed in the Patrick Project. Concerns regarding riparian management ranged across the gradient from statements that our public:

- would like to see ecologically sustainable management in the Patrick Project,
- concerns about water quality (sediment and water temperature),
- comments requesting special management in these areas,
- concerns regarding the science developed today, compared with what was used in developing Riparian Habitat Conservation Areas (RHCAs),
- recommendations to hand treat conifers and leave materials on the ground and plant hardwoods.

We observed concerns around riparian management that varied and developed an alternative that removed all thinning units in RHCAs. I am moving forward with the RVR treatments, because these areas provide disproportionate habitat functions for fish (Management Indicator Species of Redband Trout and other non-game fish species like dace) and wildlife and improving their condition is extremely important. The Wallowa Whitman National Forest has shown they can implement RHCA treatments without causing adverse impacts to fisheries or retarding attainment of riparian management objectives over the past 3 years with the implementation of Little Dean. RVR treatments with commercial removal will occur on up to 1 percent of the planning area and less than 84 percent of RHCAs within the planning area. Similarly, non-commercial riparian vegetation treatments with non or pre commercial thinning will occur on up to 8.6 percent of the planning area and less than 74 percent of the RHCAs within the planning area.

Removing RVR treatments from my decision would not meet the purpose and need of the project to 1) increase landscape resiliency to risk of uncharacteristic disturbance by moving conditions toward HRV within ... riparian forest types and 2) increase structural complexity and species diversity of vegetation to provide habitat. The condition of forest health in RHCAs in the Patrick Planning Area can be described as disproportionately being within the understory re-initiation stage with a high density of small diameter conifer trees under an overstocked overstory. This creates elevated fuel loads that increase the risk of a hotter and larger wildfire. Also, less

hardwood cover is present as a result of the increase in conifer cover and lack of disturbances. Patrick landscape historically had frequent fire and existing conditions are not conducive for positive outcomes in WUI areas. While fire reconstructions have not been completed in the Patrick Project, findings from Harley et al (2020) are relevant. Patrick is a dry landscape (79 percent of project area) similar to Dugout and Baker City Watershed that was studied. They investigated historical fire patterns from 1650-1900 in NE Oregon and observed low-severity fire patterns with a riparian fire average of 20 years compared to 15 years average in adjacent uplands and found these two to be statistically insignificant.

Regarding removal of a commercial product from RHCAs, the Whitman RD has implemented commercial logging in RHCAs in the Little Dean Project with a varying 25-50 foot buffer from various fish bearing streams. The Patrick Project's RVR was designed with the criteria of a 100-foot commercial thinning setback from the creek and upstream of a road, because of scoping comments. These treatments have been designed to ensure adverse impacts do not occur to critical riparian management objectives. I believe this design of the RVR treatments articulates special management in these areas with the setback from where commercial treatments can occur and their lessened impacts on riparian management objectives like large woody debris recruitment, water temperature or sedimentation.

Regarding the impacts of RVR treatments, concerns were raised regarding water temperature impacts associated with treating conifers. Shade providing vegetation is primarily broken into two zones, the primary and secondary shade. Primary shade zones typically occur from the streambank and extend back 50 feet. There would be a short-term impact on approximately 670 acres of the 3,745 acres of RVR treatments in RHCAs to water temperature that would last approximately 3-5 years. Two streams are water quality impaired for temperature, North Fork Burnt River and Patrick Creek. Patrick Creek does not have proposed NCT treatments, but North Fork Burnt River has approximately 185 acres of NCT treatment. A PDC has been developed to minimize water temperature impacts of NCT treatments so that no more than 25% of the total RHCA area does not receive a treatment. Implementation of this PDC will moderate the short-term water temperature impacts over time so that they don't occur at once to water quality impaired streams.

### **Summary of Decision Rationale**

Alternative 2 addresses the purpose and need:

- Implements vegetation treatments to improve stand resiliency and move structures toward the Historic Range of Variation (Silviculture effects EA p. 47-56)
- Establishes Defensible Fuels Profile Zones and meets the needs of Wildland Urban Interface (Fuels effects, EA p. 84-95)
- Maintains habitat integrity to provide for wildlife needs such as connectivity, snags and downed wood (Wildlife effects, EA p. 122-132)
- Increases the amount and quality of forage, particularly in security areas where it will most benefit elk. (Wildlife effects, EA p. 122-132)
- Provides a wider variety of socio-economic benefits through direct and indirect outputs (see Socio-Economics effects in EA p 141-143)
- Incorporates Best Management Practices, project design criteria, and mitigation measures

to protect soil, water, cultural, and wildlife resources (Appendix B)

## **FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS**

This decision is consistent with the Wallowa-Whitman National Forest Land Management Plan. The project was designed in conformance with the long-term goals and objectives of the land and resource management plan and incorporates appropriate land and resource management plan standards and guidelines for soils, wildlife habitat, riparian and fisheries habitat, vegetation, water, fuels, air quality, threatened, endangered, and sensitive species, visual resources, and management area guidelines (Forest Plan, Chapter 4).

A Finding of No Significant Impact (FONSI) and EA were considered. I determined these actions will not have a significant effect on the quality of the human environment, and an Environmental Impact Statement (EIS) will not be prepared.

### ***National Environmental Policy Act (NEPA)***

NEPA establishes the format and content requirements of environmental analysis and documentation as well as requirements for public involvement and disclosure. The project was designed in conformance with the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA).

### ***National Forest Management Act (NFMA)***

Requirements of the National Forest Management Act of 1976, including its amendments to the Forest and Range Renewable Resource Planning Act of 1974 would be met. Timber harvest would only occur on soils, slopes, or watershed conditions that would not be irreversibly damaged. Protection is provided for streams and streambanks from detrimental changes in water temperatures and deposits of sediment that would prevent serious and adverse effects to water conditions or fish habitat (EA Aquatic Resources and Species section).

### ***Endangered Species Act of 1973, as amended***

The Endangered Species Act requires protection of all species listed as “threatened” or “endangered” by federal regulating agencies (Fish and Wildlife Service and National Marine Fisheries Service). Biological Evaluations/Biological Assessments for Endangered, Threatened, and Sensitive plant, wildlife, and fish species have been completed. Determinations were made that none of the proposed activities would adversely affect, contribute to a trend toward Federal listing, nor cause a loss of viability to the listed plant and animal populations or species. Details regarding the actual species found within the Patrick project area and the potential effects of proposed activities on those species and their habitat are contained in the EA, chapter 3, under the Wildlife, Aquatic Resources and Botany sections, and summarized in the FONSI.

### ***Clean Water Act, as amended***

The Clean Water Act provides overall direction for the protection of waters of the United States from both point source and non-point source pollutants. Oregon Department of Environmental Quality (ODEQ) implements the Clean Water Act in Oregon. Section 303(d) of the act requires improvement of impaired streams.

The EPA has certified the Oregon Forest Practices Act and regulations as established management practices (BMPs). The state of Oregon has compared Forest Service practices with state practices and concluded that Forest Service practices meet or exceed state requirements. Site-specific BMPs have been designed to protect beneficial uses. The application of water quality BMPs and list of applicable BMPs that will be utilized to implement the activities in the selected alternative are discussed in the Aquatic Resources specialist Report.

This decision is consistent with the Clean Water Act and Forest Plan standards and will not prevent the attainment of any INFISH Riparian Management Objective (RMOs) currently not meeting standards, it will move some RMOs towards attainment, and will not degrade RMOs for aquatic habitat presently meeting standards. Forest Plan consistency is achieved by following BMPs.

### ***Clean Air Act***

The selected alternative will comply with the Clean Air Act. The Act prescribes air quality to be regulated by each individual state. The Forest Service will follow directions of the Oregon State Forester in conducting prescribed burning in order to achieve strict compliance with all aspects of the Clean Air Act and adherence to the Oregon Smoke Management Plan (EA p. 80).

### ***Environmental Justice and Civil Rights***

Executive Order 12898 (Feb. 11, 1994) requires all federal agencies to make environmental justice part of each agencies mission, by identifying and addressing, as appropriate, disproportionately high, and adverse human health or environmental effects on minority populations or low-income populations. The alternatives were assessed to determine whether they would disproportionately impact minority or low-income populations, in accordance with Executive Order 12898. Logging, mill production, and reforestation under all action alternatives are expected to help sustain employment and income opportunities within Union and Baker Counties, including those of minority and low-income groups. No minority or low-income populations would be adversely impacted by implementation of any of the alternatives. The project would have no impacts on any Native American Indians, women, or the civil liberties of any American Citizen (EA p. 140-142, 219-223).

### ***Tribal Treaty Rights***

Treaties provide that Native Americans will continue to have the right to erect suitable buildings for fish curing, privileges of hunting, gathering roots and berries, and pasturing stock on unclaimed lands. Indian treaty rights and privileges were considered throughout this analysis and maintained through appropriate design and layout features, especially related to First Food resources such as fish, wildlife, and plants.

Many plants that can be found in eastern Oregon may have cultural significance, and some of the plants may be present in the Patrick Project area. The following plants which may be of cultural significance may be found in environments similar to that of the Patrick Project: Grouse whortleberry, Blue huckleberry, Russet buffaloberry, Bulrush, Blue elderberry, Scarlet elderberry, Geyer's willow, Willow, Gooseberry/Currant, Alderleaf buckthorn, Yampah, Bolander's yampah, Bitter cherry, Common chokecherry, Lodgepole pine, Mock orange, Gray's biscuitroot, Fernleaf biscuitroot, Cous biscuitroot, Bitterroot, Ocean spray, Strawberry, Hawthorne, Lanceleaf springbeauty, Horsehair lichen, Balsamroot, Big sagebrush, and



Saskatoon serviceberry. (It should be noted that no official survey was conducted by WWNF botanists for presence/absence of these plants in the project area). Redband trout are known to be present in the project area, as are deer and elk. First Foods are those individual resources, reserved in their Tribal treaties, to which Tribal members retained rights. These rights, such as hunting, fishing, and gathering roots and berries, have been acknowledged by the United States Supreme Court. The Tribes mission is to protect, restore, and enhance the First Foods (including water, salmon, deer, cous, and huckleberry) for the perpetual cultural, economic, and sovereign benefit of the Tribe. They measure the success of resource management by the availability and utilization of these resources. The sustainability of these resources is considered by them the minimum ecological condition necessary to meet the trust responsibility of the United States.

This project has shared in the federal government's overall trust responsibility to Indian tribes where treaty or other legally defined rights apply to National Forest System lands. Consultation has incorporated opportunities for tribal comments and contributions to the proposed action. (See EA p. 12). All alternatives are relatively equal in their treatment of treaty rights and are expected to maintain treaty rights and opportunities into the future.

Specifically required disclosures are addressed in the EA pp 222-224.

## FINDING OF NO SIGNIFICANT IMPACT

The significance of environmental impacts must be considered in terms of context and intensity. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human and national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. In the case of a site-specific action, significance usually depends upon the effects in the locale rather than in the world as a whole. Intensity refers to the severity or degree of impact. (40 CFR 1508.27)

### CONTEXT

For the proposed action and alternatives, the context of the environmental effects is based on the environmental analysis in this EA.

### INTENSITY

The intensity of effects was considered in terms of the following:

1. **Impacts may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that, on balance, the effect will be beneficial.**

Consideration of the intensity of environmental effects is not biased by beneficial effects of the action.

Impacts that may be both beneficial and adverse are discussed in the Environmental Consequences section of the EA. These impacts are within the range of those identified in the Forest Plan. The actions will not have significant impacts on other resources identified and described in this analysis. The effect of the decision is non-significant in the long and short term.



2. **The degree to which the proposed action affects public health or safety.** There will be no significant effects on public health and safety because short-term safety hazards such as truck traffic, heavy equipment on and near roads, and prescribed burning will be mitigated through contract safety provisions.
3. **Unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.** There will be no significant effects on unique characteristics of the area, because this project proposal does not affect any unique geographical characteristics such as parklands, prime farmlands, wild and scenic rivers or ecologically critical areas. There are wetlands, which are considered a sensitive soil type, present in the project area. To ensure protection from the effects of the proposed actions, wetlands would have the INFISH buffer designation and special project design criteria therefore there will be no significant effect to them.
4. **The degree to which the effects on the quality of the human environment are likely to be highly controversial.** The effects on the quality of the human environment are not likely to be highly controversial. There is no known credible scientific controversy over the impacts of the proposed action, nor were there scientifically controversial effects to the human environment brought up during public participation. (See EA, Environmental Consequences section).
5. **The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** There are areas in the project area that were assessed with a Level 1 Slope Stability Assessment by Region 6 Geotechnical engineers and their report and recommendations can be found in the project file (Appendix E). This assessment provided the planning team with possible risks and recommendations to ensure all proposed activities within historic landslides or landslide prone areas will not create uncertain, unique or unknown risks to the human environment. Otherwise, there are no known effects on the human environment that are highly uncertain or involve unique or unknown risks associated with this project. Activities such as fuels reduction, vegetation management, prescribed burning, and firewood cutting are common practices, and the effects are well known. The EA effectively addresses and analyzes issues and environmental impacts associated with the project (EA, Environmental Impacts section).
6. **The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.** These actions do not set a precedent for other projects that may be implemented to meet the goals and objectives of the Wallowa-Whitman National Forest Land and Resource Management Plan. The Forest Plan, as amended has goals for providing wood products and protection of resources and municipal watersheds from wildfire. This project does not propose site specific changes/amendments to the forest plan.
7. **Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.** The cumulative impacts are not significant. There are no known significant adverse, cumulative, or secondary effects between this project and other projects (completed, active, or planned) adjacent to the affected area. Effects to the

basic resource values of soil, water, vegetation, air, fish, or wildlife were estimated and determined to be localized and limited. This determination is based on the results of cumulative effects analyses discussed in the EA that considered past, existing, and proposed activities (See EA Environmental Consequences and Appendix A).

8. **The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed, or eligible for listing, in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.** Based on a cultural resource inventory and report, and mitigation and protection measures, the known cultural, scientific, or historical resources within the project area will be protected (Appendix B, Project Design Criteria) and there will be no adverse effect. Field review has been completed for cultural and historic resources (Heritage Report, analysis file) on USFS lands. All contracts will contain a clause requiring protection of any newly detected sites. Tribal consultation is ongoing, and consultation with the Oregon State Historic Preservation Office will be completed prior to project implementation.
9. **The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.** The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973. Biological Evaluations for Endangered, Threatened, and Sensitive (PETS) plant, wildlife, and fish species have been completed (EA, pages 176-185, Appendix E). Determinations were made that none of the proposed activities would adversely affect, contribute to a trend toward Federal listing, nor cause a loss of viability to the listed plant and animal populations or species.

A biological evaluation for wildlife proposed, endangered, threatened, and sensitive (PETS) species indicates that this project received a “no impact” determination for the “sensitive” northern bald eagle, Lewis’ woodpecker, gray wolf, and Johnson’s hairstreak. The white-headed woodpecker also received a “no impact” determination although it is noted that this project would create habitat for this species. There are 16 sensitive species not present in the project area, receiving “no impact” calls. Other sensitive species, Columbia spotted frog, Blue Mountainsnail, Shiny tightcoil, Fir Pinwheel, Umatilla Megomphix, Fringed myotis, western bumblebee, Suckley Cuckoo bumblebee, and Intermountain sulphur received a may impact but not likely to trend toward federal listing determination.

Implementation of the Patrick Project may impact PETS Aquatics redband trout and western ridge mussel, individuals or habitat, but will not likely contribute to a trend towards federal listing or cause a loss of viability to the populations or species. (EA, p. 181-185)

The biological evaluation for PETS Plants indicates that project activities will have “no effect” to federally listed *Pinus albicaulis* and *Spiranthes diluvialis* because none are known to exist in the project area. There will be “no impact” to 9 currently listed Region – 6 Sensitive Plant species. Project activities “may impact individuals or habitat of but will not likely contribute to a trend towards federal listing or cause a loss of viability to

the population or species” (MIH) on 26 suspected and 2 documented sensitive species (*Botrychium montanum* and *Eleocharis bolanderi*). (EA, pp. 176-185)

10. **Whether the action threatens to violate Federal, State, or local law or requirements imposed for the protection of the environment.** The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA (see EA Environmental Consequences). The action is consistent with the Wallowa-Whitman National Forest Land and Resource Management Plan. The actions proposed in this project area focus on modifying fire behavior in strategic areas to provide for improved safe areas to firefighting resources, improved stand health, and wood products for surrounding communities.

After considering the effects of the actions analyzed, in terms of context and intensity, I have determined that these actions will not have a significant effect on the quality of the human environment. Therefore, an environmental impact statement will not be prepared.

## OBJECTION PROCESS

This proposed decision is subject to predecisional administrative review pursuant to 36 CFR 218, Subparts A and B, also known as the “objection process.” Objections will only be accepted from those who submitted project-specific written comments during scoping or other designated comment period. Issues raised in objections must be based on previously submitted comments unless based on new information arising after the designated comment period(s).

Objections must be submitted within add 45 days following the publication of the legal notice in the Baker City Herald, the paper of record. The date of this legal notice is the exclusive means for calculating the time to file an objection. Those wishing to object should not rely upon dates or timeframes provided by any other source. It is the objector’s responsibility to ensure evidence of timely receipt (36 CFR 218.9).

Electronic objections must be submitted to: Wallowa-Whitman National Forest’s project webpage at <https://www.fs.usda.gov/project/?project=55477> . Select the “Comment/Object on Project” link in the “Get Connected” group at the right hand side of the project webpage.

Hardcopy objections can be submitted by:

- Mail or Hand Deliver to Shaun McKinney Forest Supervisor, Wallowa-Whitman National Forest, 1550 Dewey Ave. Ste 100, Baker City, OR 97814. Hand deliveries can occur between 8:00 AM and 4:30 PM, Monday through Friday except legal holidays. To facilitate service under COVID related safety procedures, the Wallowa Whitman National Forest is offering the option to pre-schedule delivery appointments. This will be done during these same business hours by telephone at 541-523-6391.
- Fax: Shaun McKinney, Forest Supervisor, 541-523-6392
- Objections must include (36 CFR 218.8(d)): 1) name, address and telephone; 2) signature or other verification of authorship; 3) identify a single lead objector when applicable; 4) project name, Responsible Official name and title, and name of affected National Forest(s) and/or Ranger District(s); 5) description of the specific issues related to the proposed project and suggested remedies to resolve, your objections; and, 6) description of the connection between your objections and your prior comments. Incorporate documents by reference only as provided for at 36 CFR 218.8(b).

## IMPLEMENTATION

If no objections are filed within the 45-day objecting filing period, implementation of the project may occur on, but not before, the 5th business day from the close of the objection filing period. If an objection is filed, the reviewing officer must issue a written response to the objector(s) within 45 days of the end of the objection filing period. The responsible official may not issue a Final Decision Notice until the reviewing officer has responded in writing to all objections (36 CFR 218.12 (a)).

## CONTACT

For additional information concerning this decision, contact: Adrian Cuzick, Environmental Coordinator, Whitman Ranger District, 1550 Dewey Ave., Ste 100, Baker City, OR 97814, 541-519-9919.

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Kendall Cikanek

Date

District Ranger

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